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Queenstake Resources U.S.A. Inc.,
7 *Yukon-Nevada Gold Corp. and*
Mike Morgan in his official capacity
8

9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**
11

12 **ANGEL CERVANTES,**

Case No.: 3:09-cv-00234-LRH-RAM

13 Plaintiff,

14 vs.

ANSWER TO COMPLAINT

15 **QUEENSTAKE RESOURCES USA,**
16 **INC., YUKON-NEVADA GOLD**
CORPORATION, and MIKE MORGAN
17 **in his individual and official capacity,**

18 Defendants.
19 /

20 Defendants, QUEENSTAKE RESOURCES U.S.A. INC., YUKON-NEVADA GOLD
21 CORP., and MIKE MORGAN in his official capacity ("Defendants"), by and through their
22 attorneys, GOICOECHEA, DI GRAZIA, COYLE & STANTON, LTD., of Elko, Nevada, in
23 answer to Plaintiffs' Complaint, admit, deny and allege as follows:

NATURE OF THE ACTION

24 1. Defendants admit that the action is an employment discrimination action based
25 upon Title VII of the 1964 Civil Rights Act (hereinafter "Title VII"), as amended, and the Civil
26 Rights Act of 1991. All other allegations of Paragraph 1 are denied.

27 2. Defendants admit that the Plaintiff has alleged the allegations set forth in
28 Paragraph 2 but deny the truth of the allegations.

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JURISDICTION AND VENUE

3. Defendants deny the action referred to in Paragraph 3 is "authorized" but admit all other allegations of Paragraph 3.

4. Defendants admit Paragraph 4.

5. Defendants admit Paragraph 5.

6. Defendants do not have a copy of Exhibit 1 referred to in Paragraph 6 and, therefore, do not have knowledge or information sufficient to form a belief as to the allegations of Paragraph 6.

PARTIES

7. Upon information and belief, Defendants admit Paragraph 7.

8. Defendants admit that Defendant YUKON-NEVADA GOLD CORP. is and was a foreign corporation. Defendants deny the remainder of Paragraph 8.

9. Defendants admit that Defendant QUEENSTAKE RESOURCES U.S.A. INC. was a foreign corporation doing business in Elko. Defendants further allege that QUEENSTAKE RESOURCES U.S.A. INC. has continued to do business in the County of Elko. All other allegations of Paragraph 9 are denied.

10. Defendants admit that Defendant QUEENSTAKE RESOURCES U.S.A. INC. has, at all times relevant hereto, continuously employed at least fifteen (15) employees. All other allegations of Paragraph 10 are denied.

11. Defendants admit that MIKE MORGAN was employed by Defendant QUEENSTAKE RESOURCES U.S.A. INC. Defendants deny that MIKE MORGAN was employed by Defendant YUKON-NEVADA GOLD CORP. Defendants do not have knowledge or information sufficient to form a belief as to the allegations of Paragraph 11.

12. Defendants admit that Plaintiff was an employee of Defendant QUEENSTAKE RESOURCES U.S.A. INC. Defendants deny the remainder of the allegations of Paragraph 12.

13. Defendants do not have knowledge or information sufficient to form a belief as to the allegations of Paragraph 13.

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GENERAL ALLEGATIONS

14. Defendants deny Paragraph 14.

15. Upon information and belief, Defendants deny Paragraph 15.

16. Defendants do not have knowledge or information sufficient to form a belief as to the allegations of Paragraph 16.

17. Upon information and belief, Defendants deny Paragraph 17.

18. Defendants deny Paragraph 18.

19. Defendants admit Paragraph 19.

FIRST CAUSE OF ACTION

Racial and National Origin Discrimination

(Title VII, 42 U.S.C. 1981, 42 U.S.C. 2000(e))

20. Defendants repeat and reallege their responses as if set forth fully herein.

21. Upon information and belief Defendants deny Paragraph 21.

22. Defendants do not have knowledge or information sufficient to form a belief as to the allegations of Paragraph 22.

23. Defendants deny Paragraph 23.

24. Defendants deny Paragraph 24.

25. Defendants deny Paragraph 25.

26. Defendants deny Paragraph 26.

27. Defendants admit that QUEENSTAKE RESOURCES U.S.A. INC. issued its Termination Notice to Plaintiff effective June 17, 2008. All other allegations of Paragraph 27 are denied.

28. Defendant QUEENSTAKE RESOURCES U.S.A. INC. admits that one of the reasons for termination of the employment of the Plaintiff involved safety issues. All other allegations of Paragraph 28 are denied.

29. Defendants deny Paragraph 29.

30. Defendants deny Paragraph 30.

31. Defendants deny Paragraph 31.

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1 32. Defendants deny Paragraph 32.

2 33. Defendants deny Paragraph 33..

3 34. Defendants deny Paragraph 34.

4 35. Defendants do not have knowledge or information sufficient to form a belief as to
5 the allegations of Paragraph 35.

6 36. Defendants deny Paragraph 36.

7 37. Defendants deny Paragraph 37.

8 38. Defendants deny Paragraph 38.

9 39. Defendants deny Paragraph 39.

10 40. Defendants deny Paragraph 40.

11 41. Defendants deny Paragraph 41.

12 **SECOND CAUSE OF ACTION**

13 **Retaliation**

14 42. Defendants deny Paragraph 42.

15 43. Defendants deny Paragraph 43.

16 44. Defendants deny Paragraph 44.

17 45. Defendants deny Paragraph 45.

18 46. Defendants deny Paragraph 46.

19 47. Defendants deny Paragraph 47.

20 48. Defendants deny Paragraph 48.

21 49. Defendants deny Paragraph 49.

22 **AFFIRMATIVE DEFENSES**

23 **FIRST AFFIRMATIVE DEFENSE**

24 Plaintiff has failed to state a claim on which relief can be granted against Defendant
25 YUKON-NEVADA GOLD CORP.

26 **SECOND AFFIRMATIVE DEFENSE**

27 All of the damages for which Plaintiff seeks relief were caused in whole or in part by
28 Plaintiff's own acts and omissions.

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THIRD AFFIRMATIVE DEFENSE

In the event the allegations against Defendant MIKE MORGAN are determined to be true, such acts were outside of his official capacity and not within his course and scope of employment.

FOURTH AFFIRMATIVE DEFENSE

The termination of Plaintiff's employment by QUEENSTAKE RESOURCES U.S.A. INC. was for unsatisfactory work performance, failure to follow required QUEENSTAKE RESOURCES U.S.A. INC. policies and misconduct in connection with his employment and not for any reasons associated with Plaintiff's race or national origin.

WHEREFORE, Defendants pray judgment as follows:

1. That Plaintiff take nothing by way of his Complaint and that the same be dismissed with prejudice;
2. For reasonable attorney fees and court costs in being required to defend this action; and
3. For such other and further relief as to this Court appears just and proper.

DATED this 28th day of May, 2009.

**GOICOECHEA, DI GRAZIA,
COYLE & STANTON, LTD.**
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By: 

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CERTIFICATE OF SERVICE

Pursuant to F.R.Civ.P. 5(b), I certify that I am an employee of GOICOECHEA, DI GRAZIA, COYLE & STANTON, LTD., and that on this 28th day of May, 2009, I deposited for mailing, postage prepaid, at Elko, Nevada, a true copy of the foregoing, addressed as follows:

Jeffrey S. Blanck, Esq.
485 West Fifth Street
Reno, NV 89503
Attorney for Plaintiff


SHARON MATHIAS

GOICOECHEA, DI GRAZIA, COYLE & STANTON, LTD.

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